IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY FOURTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 8958 of 1997

Between:

Tajender Kumar S/o M.N. Sachdeva, Hyderabad.

..... PETITIONER

AND

1. Additional Industrial Tribunal-cum-Additional Labour Court,
Chandra Vihar, Hyderabad.

2. The Management of M/s. Golden Cave Bar & Restaurent, 7-1-621/C,
East Srinivasa Colony, Ameerpet, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order, direction or writ more particularly one in the nature of writ of certiorari after calling for the records in I.D.No.42/95 on the file of the Additional Industrial Tribunal-cum-Labour Court, Hyderabad and set aside the award in I.D.No.42/95 dated 07-12-1996 and consequently direct the respondent-Management to reinstate the petitioner into service with full back wages, continuity of service and all other attendant benefits.

Counsel for the Petitioner: MR. G. VIDYASAGAR

Counsel for the Respondent No.1: GP FOR LABOUR

Counsel for the Respondent No.2: None Appeared

The Court made the following:

ORDER:

This writ petition is filed aggrieved by the Order of the Labour Court dated 07-12-1996 passed in I.D.No.42 of 1995.

2. It is stated that the petitioner was appointed by the second respondent-Management as Steward on consolidated wages of
Rs.1,500-00 per month. After appointment, the petitioner was also extended the benefits of Employees State Insurance Act and Provident Fund Act. However, on 09-02-1995 it is stated that the petitioner came to the second respondent-Management, five minutes late, and therefore, the second respondent refused to permit the petitioner to join duty and directed him to submit his resignation. When the petitioner refused to submit resignation, the second respondent terminated the services of the petitioner with effect from 09-02-1995. Therefore, the petitioner raised an industrial dispute, which was numbered as I.D.No.42 of 1995. Before the Labour Court, both the Workman and the Management adduced evidence, and the Labour Court, after considering the material on record, gave a finding that the workman got his accounts settled and received an amount of Rs.4,154-00 as a final settlement of his accounts and passed a receipt in favour of the second respondent-Management, under Ex.M-2. Thereafter, the petitioner-workman did not even attend the second respondent establishment. The Labour Court, therefore, concluded that the petitioner's services were not terminated but the petitioner-workman himself given up his employment by settling his accounts and received the amounts due to him as per his service conditions. Therefore, the Labour Court dismissed the claim made by the petitioner. Aggrieved by that, the petitioner came up with the present petition.

3. The learned Counsel for the petitioner contended that the petitioner did not resign to his employment, but a resignation letter was obtained from him by force. Further, it

is contended that though the Labour Court found that the resignation of the petitioner was not proved, but, however, declined to grant the relief erroneously, and the learned Counsel therefore, sought to set aside the award of the Labour Court, with a consequential relief of directing the second respondent-Management to reinstate the petitioner into service with all consequential benefits.

4. None appears for the respondents.

5 . Heard the learned Counsel for the petitioner and considered the material on record.

6. Admittedly, the petitioner worked for sometime under the second respondent-management as steward, but, subsequently, according to the second respondent-Management, the petitioner has submitted his resignation and got his account settled, and received an amount of Rs.4,154-00 by way of final settlement and passed a receipt on Ex.M-2. Therefore, there is no case of any termination, which can be agitated before the Labour Court. However, the contention of the petitioner-workman is that he did not submit any resignation letter, but the same was obtained by coercion. Even as per the Labour Court also, the said resignation of the petitioner was not proved and therefore, he is entitled for the relief of reinstatement. But the Labour Court on consideration of the evidence recorded a finding that the petitioner received the service benefits, finally settling his accounts under Ex.M-2, which shows that the petitioner received not only the salary of 3 and ½ months, but also received the bonus payable to him, which clearly shows that the benefits available under the service conditions were settled and paid to the petitioner-workman, and once they were received by the petitioner-workman and passed a receipt under Ex.M-2, it is difficult to believe the version of the petitioner that he has not voluntarily given up his employment. On consideration of the award of the Labour Court, there is no merit warranting interference.

7. The writ petition is accordingly dismissed. No costs.

S. ANANDA REDDY, J

Dt.24-09-2004

Glv/Kvh

ASSISTANT REGISTRAR

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SECTION OFFICER

Copies to:

1. The Presiding Officer,
Additional Industrial Tribunal-cum-Additional Labour Court,
Chandra Vihar, Hyderabad.

2. Two CCs to the Government Pleader for Labour, High Court Buildings,
Hyderabad. (OUT)

3. Two C D copies.